UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF ALABAMA

LOCAL RULES

effective June 1, 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

ORDER PROMULGATING LOCAL RULES

Pursuant to Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure, it is hereby ORDERED that the following local rules of practice be, and the same are hereby adopted for use in this Court, and these Rules shall supersede all prior local rules and the following specified standing orders, which are hereby RESCINDED: Standing Order Number 3 (relative to custody of sensitive exhibits), Standing Order Number 19 (regarding retained criminal defense attorneys) and Standing Order Number 22 (pretrial disclosure and discovery procedures).

It is FURTHER ORDERED that a copy of these Rules be furnished to the Eleventh Circuit Judicial Council, the Administrative Office of the United States Courts and that they be made available to the public.

DONE this 1st day of June, 1997.

CHIEF JUDGE CHARLES R. BUTLER, JR

JUDGE RICHARD W. VOLLMER, JR.

SENIOR JUDGE DANIEL H. THOMAS

SENIOR JUDGE VIRGIL PITTMAN

SENIOR JUDGE W. B. HAND

SENIOR JUDGE ALEX T. HOWARD, JR.

TABLE OF CONTENTS

I. SCOPE OF RULES–ONE FORM OF ACTION

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

III. PLEADINGS AND MOTIONS

IV. DISCOVERY

V. TRIAL AND JUDGEMENT

VI. SPECIAL PROCEEDINGS

VII. GENERAL PROVISIONS

VIII. ADMIRALTY LOCAL RULES

APPENDIX

I. SCOPE OF RULES–ONE FORM OF ACTION

LR 1.1. Scope and Construction of Rules

(a) Title and Citation. These rules shall be known as the Local Rules of the United States District Court for the Southern District of Alabama. They may be cited as "SD ALA LR _____".

(b) Effective Date. These rules shall become effective on June 1, 1997.

(c) Scope of Rules.

(1) These rules, made pursuant to the authority of 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, shall apply to all proceedings in this Court, whether civil or criminal, unless specifically provided to the contrary or necessarily restricted by inference from the content.

(2) These rules are intended to supplement the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and other controlling statutes and rules of court. They shall be applied, construed and enforced to avoid inconsistency with other governing statutes and rules of court, and shall be employed to provide fairness and simplicity in procedure, to avoid technical and unjustified delay, and to secure a just, expeditious and inexpensive determination of all proceedings.

(3) As used in these rules the term "judge" means "circuit judge", "district judge", "bankruptcy judge", and/or "magistrate judge", unless otherwise indicated.

(4) Any judge of this Court may suspend application and enforcement of these rules, in whole or in part, in the interests of justice in individual actions. When any judge of this Court, in a specific action, issues any order which is not consistent with these rules, such order shall constitute a suspension of the rules with respect to that action only, and only to the extent that such order is inconsistent with the rules.

(d) Bankruptcy Court Authorized to Promulgate Its Own Local Rules. Subject to the review of the District Court, the Bankruptcy Court for the Southern District of Alabama is authorized to make and amend rules governing practice and procedure in all actions within its jurisdiction. Any rules made pursuant to this authorization must be consistent with Bankruptcy Rule 9029, and Fed.R.Civ.P. 83, and may not limit the use of the Official Forms.

LR 1.2. Availability of the Local Rules

Copies of these rules, and the amendments and appendices to them, shall be available from the clerk's office at no charge to newly admitted counsel. Otherwise, a reasonable charge, to be determined by the court, shall be applied. Copies of the addenda shall likewise be available from the clerk's office, upon written request, at a charge to be determined by the court.

LR 2.1. Procedures for Individual Judges

Attorneys practicing before this Court are advised that the judges of this Court have adopted different pretrial orders, copies of which are available from the clerk's office. The judges also have adopted different rules regarding courtroom demeanor and proceedings applicable to actions assigned to their dockets. Some of these rules have been reduced to writing. Attorneys shall check with the clerk of court in order to ascertain whether a particular judge has any such printed rules.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

LR 3.1. Divisions of the Court

As prescribed by 28 U.S.C. § 81, the Southern District of Alabama comprises two divisions.

(a) The Northern Division comprises the counties of Dallas, Hale, Marengo, Perry, and Wilcox. Court for the Northern Division shall be held in Selma, unless otherwise ordered by the court.

(b) The Southern Division comprises the counties of Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington. Court for the Southern Division shall be held in Mobile, unless otherwise ordered by the court.

LR 3.2. Civil Cover Sheet

A completed Civil Cover Sheet (Form JS-44c) shall be submitted to the clerk with the initial civil complaint or notice of removal filed in this Court by a litigant represented by counsel.

LR 3.3. Assignment of Related Civil Actions and Refiled Actions

(a) Related Actions. If the Civil Cover Sheet (Form JS-44c) indicates that the civil action in which it is filed is related to another action or actions pending in this district, the action shall be assigned to the district judge before whom the related action with the lowest file number is pending or as may be otherwise determined by the chief judge.

(b) Refiled Actions. Whenever an action or proceeding terminated by entry of a notice or order of dismissal is refiled without a substantial change in issues or parties, it shall be assigned or transferred to the district judge to whom the original action or proceeding was assigned, unless otherwise ordered by the chief judge.

LR 3.4. Disclosure Statement

(a) A corporation, association, joint venture, partnership, syndicate, or other similar entity appearing as a party or *amicus* in any proceeding shall file a Disclosure Statement, at the time of the filing of the initial pleading, or other court paper on behalf of that party or as otherwise ordered by the court, identifying all parent companies, subsidiaries, and affiliates that have issued shares or debt securities to the public. In emergency or any other situations where it is impossible or impracticable to file the Disclosure Statement with the initial pleading, or other court paper, it shall be filed within seven days of the date of the original filing, or such other time as the court may direct. For the purposes of this rule, "affiliate" shall be a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified entity; "parent" shall be an affiliate controlled by such entity directly, or indirectly through intermediaries; and "subsidiary" shall be an affiliate controlled by such entity directly, or indirectly through one or more intermediaries.

(b) The purpose of this Disclosure Statement is to enable the judges of this court to determine the need for recusal pursuant to 28 U.S.C. §455 or otherwise. Counsel shall have the continuing obligation to amend the disclosure statement to reflect relevant changes.

(c) The statement shall identify the represented entity's general nature and purpose and if the entity is unincorporated, the statement shall include the names of any members of the entity that have issued shares or debt securities to the public. No such listing need be made, however, of the names of members of a trade association or professional association. For purposes of this rule, a "trade association" is a continuing association of numerous organizations or individuals operated for the purpose of promoting the general commercial, professional, legislative, or other interests of the membership. The form of the Disclosure Statement is set forth in Appendix A to these Rules.

LR 4.1. Service of Process

Unless otherwise ordered by the court, the following procedures for service of process apply in this District.

(a) Summons. The provisions of Fed.R.Civ.P. 4 apply in this District. If service is effected by summons, the person effecting service shall make proof thereof to the court within five (5) days of the date service is effected. *See* Fed.R.Civ.P. 4(l).

(b) Waiver of Service. The provisions of Fed.R.Civ.P. 4(d) apply in this District. If service is waived, Plaintiff shall file the waiver of service with the court within five (5) days after receipt of the waiver by Plaintiff.

(c) Notice of Service Attempt. If within forty-five (45) days after the filing of the Complaint, Plaintiff has not effected service by summons or waiver of service, Plaintiff shall file with the court a notice describing the action taken by Plaintiff to effect service and the results thereof.

LR 5.1. Files and Filings

(a) Form of Pleadings. All pleadings, motions, briefs, applications, and other papers tendered for filing shall conform to the following standards:

(1) They must be double spaced, if typewritten, and on white letter-sized paper (8½" x 11") with one inch margins, except for the first page which must allow a two inch margin at the bottom of the page;

(2) Typed matter that is not proportionally spaced shall be in 12 point type or larger and cannot exceed ten characters per inch (10 pitch);

(3) Typed matter that is proportionally spaced shall be in 14 point Times Roman (or similar) type or larger; and

(4) The requirements stated herein are not applicable when using a form approved and/or furnished by the court.

(b) Signature Blocks. At least one attorney or party appearing in any action in this Court shall sign each document filed. In addition, there shall be included directly beneath the signature line, the typed or printed name, address, telephone number (voice and facsimile) and attorney identification number of all attorneys of record in the action representing that party.

(c) Filing and Docketing. All documents, as shown in paragraphs (a) and (b) above, presented for filing and docketing shall be filed in only one action. When a paper entitled to be filed in more than one action is presented for filing and docketing, the person presenting same shall furnish the clerk with sufficient copies to be filed and docketed in each of the actions named in the paper, unless, in consolidated actions, the court has otherwise given instructions for the filing of such documents. No courtesy copies should be presented to the court, unless requested by a judge.

(d) Form of Requests for Court Action. A request for court action should be submitted in the form of a motion, petition or other pleading as authorized by statute or rule. Requests for court action may not be submitted in the form of a letter.

LR 5.5. Civil Discovery Material and Exhibits In All Civil Actions Other Than Inmate §1983 Actions

(a) Service of Discovery Material. Initial disclosures, expert witness disclosures, pretrial disclosures, interrogatories, requests for production, requests for admissions and responses thereto, and notices of depositions shall be served in accordance with Fed.R.Civ.P. 5(b), but shall not be filed with the clerk unless otherwise ordered by the court or for use at trial or in connection with motions. The party responsible for service of the discovery material shall retain the original and become custodian of the discovery material.

(b) Depositions. No depositions shall be filed with the clerk unless otherwise ordered by the court, or unless relevant portions are filed in support of or in opposition to a motion. Counsel who notices a deposition shall be the custodian of the deposition and shall maintain the original for filing if ordered by the court.

(c) Discovery Materials Filed With Motions. If discovery materials are germane to any motion or response, only the relevant portions of the material shall be filed with the motion or response.

(d) Notice to Clerk of Tendered Discovery. Whenever any discovery material is served, counsel shall contemporaneously deliver to the clerk a notice identifying the date of service and the nature of the material served or, the first and last page of the document served including the certificate of service. These notices shall be maintained by the clerk with the civil action file but will not be docketed.

(e) Duties of Custodian Of Discovery. During the pendency of any action the custodian of any discovery material shall provide to counsel for all other parties reasonable access to the material and an opportunity to duplicate the material at the expense of the copying party, and any other person may, with leave of court, obtain a copy of any discovery material from its custodian upon payment of the expense of the copy.

(f) Disposal of Discovery Material. Any discovery material, depositions or trial exhibits filed with the clerk will be disposed of by the clerk sixty days following the final disposition of the action, unless earlier withdrawn.

III. PLEADINGS AND MOTIONS

LR 7.1. Briefs

(a) Rule 12(b) and Rule 56 Motions. Any motion filed pursuant to Rule 12(b) or Rule 56 of the Federal Rules of Civil Procedure must be supported by a brief. Failure to file a brief may result in the denial of the motion. Opposing counsel shall have ten days from the date of service in which to file any response to a 12(b) motion. Local Rule 7.2 governs further requirements as to Rule 56 motions.

(b) Page Limitation. A brief filed in support of or in opposition to any motion shall not exceed thirty (30) pages in length. A reply brief by movant shall not exceed fifteen (15) pages in length. Attachments to the brief do not count toward the page limitation.

(c) Other Motions. Unless otherwise ordered by the court, no other motion or response thereto is required to be supported by a brief.

LR 7.2. Motions for Summary Judgment

(a) Accompanying Pleadings and Documents. Any motion for summary judgment shall be accompanied by a brief in support of the motion, together with suggested Determinations of Undisputed Fact and Conclusions of Law, appropriately designated, stated in separately numbered paragraphs with all findings of fact appropriately referenced to the supporting document or documents filed in the action or in support of the motion, together with a proposed order of judgment, all in such form as counsel shall deem sufficient to sustain his position on appeal in the event he is the prevailing party.

(b) Response of Opposing Party. Within thirty (30) days thereafter, or as may be otherwise ordered, the party or parties in opposition shall file a brief in opposition thereto, and, if it is contended that there are material factual disputes, shall point out the disputed facts appropriately referenced to the supporting document or documents filed in the action. Failure to do so will be considered an admission that no material factual dispute exists; provided, that nothing in this rule shall be construed to require the non-movant to respond in actions where the movant has not borne its burden of establishing that there is no dispute as to any material fact.

LR 7.3. Oral Argument on Motions

Any party may request oral argument on any motion. However, the court may in its discretion rule on any motion without oral argument.

LR 16.1. Scheduling Orders

(a) Role of Magistrate Judges. Magistrate judges may enter and modify scheduling orders under Fed.R.Civ.P. 16(b) in actions referred to them by LR 72.2 or orders of specific referral. Any scheduling order entered by a district judge shall not be modified by a magistrate judge without express permission of the district judge.

(b) Exempt Actions. Unless otherwise ordered by the court in a particular action, a scheduling order need not be entered in the categories of actions exempted under LR 26.1(d)(1) from the requirement of a meeting of the parties.

LR 16.6. Alternative Dispute Resolution

A judge of the court may order parties to participate in good faith in special procedures to assist them in resolving their civil disputes as set forth in the Alternative Dispute Resolution Plan as adopted by the court and as amended from time to time.

LR 16.12. Notice of Entrapment Defense

If a defendant intends to rely upon the defense of entrapment at the time of the alleged crime, he shall, within the time provided for the filing of pretrial motions or at such later time as ordered by the court, notify the attorney for the government in writing of such intention and file a copy of such notice with the clerk. If there is a failure to comply with the requirements of this rule, entrapment may not be raised as a defense. The court may, for cause shown, allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

LR 16.13. Criminal Discovery

(a) Policy. It is the Court's policy to rely on the standard discovery procedure as set forth in this Rule as the sole means of the exchange of discovery in criminal actions except in extraordinary circumstances. This Rule is intended to promote the efficient exchange of discovery without altering the rights and obligations of the parties, while at the same time eliminating the practice of routinely filing perfunctory and duplicative discovery motions.

(b) Initial Disclosures.

(1) Disclosure by the Government. At arraignment, or on a date otherwise set by the Court for good cause shown, the government shall tender to defendant the following:

(A) Fed.R.Crim.P. 16(a) Information. All discoverable information within the scope of Rule 16(a) of the Federal Rules of Criminal Procedure, *together with a notice pursuant to Fed.R.Crim.P. 12(d) of the government's intent to use this evidence.*

(B) *Brady* Material. All information and material known to the government which may be favorable to the defendant on the issues of guilt or punishment, without regard to materiality, within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963).

(C) *Giglio* Material. The existence and substance of any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective witnesses, within the scope of *United States v. Giglio*, 405 U.S. 150 (1972).

(D) Testifying Informant's Convictions. A record of prior convictions of any alleged informant who will testify for the government at trial.

(E) Defendant's Identification. If a line-up, show-up, photo spread or similar procedure was used in attempting to identify the defendant, the exact procedure and participants shall be described and the results, together with any pictures and photographs, shall be disclosed.

(F) Inspection of Vehicles, Vessels, or Aircraft. If any vehicle, vessel, or aircraft was allegedly utilized in the commission of any offenses charged, the government shall permit the defendant's counsel and an expert selected by the defense to inspect it, if it is in the custody of any governmental authority.

(G) Defendant's Latent Prints. If latent fingerprints, or prints of any type, have been identified by a government expert as those of the defendant, copies thereof shall be provided.

(H) Fed.R.Evid. 404(b). The government shall advise the defendant of its intention to introduce evidence in its case in chief at trial, pursuant to Rule 404(b) of the Federal Rules of Evidence.

(I) Electronic Surveillance Information. If the defendant was an "aggrieved person" as defined in 18 U.S.C. § 2510(11), the government shall so advise the defendant and set forth the detailed circumstances thereof.

(2) Obligations of the Government.

(A) The government shall anticipate the need for, and arrange for the transcription of, the grand jury testimony of all witnesses who will testify in the government's case in chief, if subject to Fed.R.Crim.P. 26.2 and 18 U.S.C. § 3500. Jencks Act materials and witnesses' statements shall be provided as required by Fed.R.Crim.P. 26.2 and 18 U.S.C. § 3500. However, the government, and where applicable, the defendant, are requested to make such materials and statements available to the other party sufficiently in advance as to avoid any delays or interruptions at trial.

(B) The government shall advise all government agents and officers involved in the action to preserve all rough notes.

(C) The identification and production of all discoverable evidence or information is the personal responsibility of the Assistant United States Attorney assigned to the action and may not be delegated without the express permission of the Court.

(3) Disclosures to U. S. Probation. At arraignment, or on a date otherwise set by the Court upon good cause shown, the government shall tender to the U. S. Probation Office all essential information needed by U. S. Probation to accurately calculate the sentencing guideline range for the defendant, including, but not limited to, information regarding the nature of the offense (offense level), the nature of the victim and the injury sustained by the victim, defendant's role in the offense, whether defendant obstructed justice in the commission of the crime, defendant's criminal history, and any information regarding defendant's status as a career offender/armed career criminal. In addition, in order to comply with the

requirements of the Anti-Terrorism Act, the government shall produce to the U. S. Probation Office information regarding the victims of defendant's alleged criminal activity, including, but not limited to, the identity of the victim by name, address, and phone number, and the nature and extent of the victim's loss or injury.

(4) Disclosures by the Defendant. If defendant accepts or requests disclosure of discoverable information pursuant to Fed.R.Crim.P. 16(a)(1)(C), (D), or (E), defendant, on or before a date set by the Court, shall provide to the government all discoverable information within the scope of Fed.R.Crim.P. 16(b).

(c) Supplementation. The provisions of Fed.R.Crim.P. 16© are applicable. It shall be the duty of counsel for all parties to immediately reveal to opposing counsel all newly discovered information, evidence, or other material within the scope of this Rule, and there is a continuing duty upon each attorney to disclose expeditiously.

(d) Motions for Discovery. No attorney shall file a discovery motion without first conferring with opposing counsel, and no motion will be considered by the Court unless it is accompanied by a certification of such conference and a statement of the moving party's good faith efforts to resolve the subject matter of the motion by agreement with opposing counsel. No discovery motions shall be filed for information or material within the scope of this Rule unless it is a motion to compel, a motion for protective order or a motion for an order modifying discovery. *See* Fed.R.Crim.P. 16(d). Discovery requests made pursuant to Fed.R.Crim.P. 16 and this Local Rule require no action on the part of this Court and should not be filed with the Court, unless the party making the request desires to preserve the discovery matter for appeal.

LR 22. Presentence Reports In Criminal Actions

The contents of a presentence report that must be disclosed pursuant to Fed.R.Civ.P. 32(b)(6)(A), shall not include the probation officer's recommendation on the sentence.

IV. DISCOVERY

LR 26.1. Implementation of Fed.R.Civ.P. 26

(a) Required Disclosures.

(1) Initial Disclosures. Unless otherwise ordered by the court, a party shall, without awaiting a discovery request, disclose that information described in Fed.R.Civ.P. 26(a)(1)(A-D) within twenty (20) days after the meeting of the parties required by Fed.R.Civ.P. 26(f).

(2) Expert Testimony and Pretrial Disclosures. Unless otherwise ordered by the court, the parties shall disclose the information described in Fed.R.Civ.P. 26(a)(2-3) at the times and in a sequence established by the Fed.R.Civ.P. 16(b) scheduling order(s) entered in each particular action.

(3) Filing. The disclosures required by subdivisions (a)(1-3) of Rule 26 shall be filed only when and to the extent, ordered by the Court or needed by a party in connection with a motion (or response thereto) or for use at trial. *See* LR 5.5.

(b) Limits on Formal Discovery. Formal discovery under Fed.Rs.Civ.P. 30-36 is permissible in the following types of actions only with prior approval of a judge of the court or upon the written stipulation of the parties:

(1) Bankruptcy Appeals and Withdrawals;

(2) Condemnation Actions;

(3) Deportation Actions;

(4) Equal Access to Justice Fee Award Appeals;

(5) Freedom of Information Actions;

(6) Government Collection Actions;

(7) Judgments--Actions to Enforce or Register;

(8) Prisoner Petitions;

(9) Selective Service Actions;

(10) Social Security Reviews;

(11) Summons/Subpoenas--Proceedings to Enforce/Contest Government Summons and Private Party Depositions; and

(12) Third Party IRS Actions.

(c) Commencement of Discovery. Unless otherwise stipulated in writing by the parties or ordered by the court in a particular action, formal discovery under Fed.R.Civ.P. 30, 31, 33, 34, and 36 may not be commenced before the meeting of the parties under Fed.R.Civ.P. 26(f) except in the following actions:

(1) actions exempted under paragraph (d)(1) from the requirement of a meeting of the parties;

(2) actions in which a temporary restraining order or preliminary injunction is sought; and

(3) actions in which discovery is needed to resolve a preliminary motion such as an objection to personal jurisdiction or venue.

(d) Meeting of the Parties. Unless otherwise ordered by the court in a particular action, the provisions of Fed.R.Civ.P. 26(f), requiring a meeting of and report from the parties, apply to all civil actions in this Court subject to the following modifications:

(1) Exclusions. The requirement of a meeting and report does not apply in:

(A) actions exempted by subparagraph (b) of this rule from the requirement that a scheduling order be entered under Fed.R.Civ.P. 16(b);

(B) actions instituted by *pro se* prisoners;

(C) actions consolidated with an action in which the parties have met as provided in this subdivision (d) or in which a scheduling order has been entered; and

(D) actions transferred to this Court under 28 U.S.C. § 1407 or consolidated with actions so transferred, and actions subject to potential transfer to another court under 28 U.S.C. § 1407 pursuant to a motion pending before the Judicial Panel on Multidistrict Litigation or a conditional transfer order entered by that panel.

(2) Time. Unless otherwise ordered by the court in a particular action, the meeting must be held within forty-five (45) days from the first appearance (answer or Rule 12(b) motion) of a defendant and at least fourteen (14) days before any scheduling conference set by the court under Fed.R.Civ.P. 16(b).

(3) Meeting by Telephone. Unless otherwise ordered by the court in a particular action, the parties may, if the offices of their principal counsel are not within 100 miles of one another, agree to conduct the meeting by telephone.

(4) Form of Report. Unless otherwise ordered by the court in a particular action, the report of the parties shall substantially conform to the format indicated in Local Form 35 attached as an appendix to these Local Rules. The report shall contain all information requested on the form or an explanation as to why the information could not be provided.

V. TRIAL AND JUDGEMENT

LR 39.1. Deadline for Filing Requests for Witnesses

Subpoenas requesting the attendance of witnesses in civil or criminal actions, except as to actions of indigents (*see* LR 83.9(f)), which are to be served by the United States Marshal, should be filed with the Clerk's office, together with the name and address of the witness, not less than ten (10) days prior to the trial date. No continuance of any action will be predicated on the failure of a witness to appear unless this rule has been complied with, except upon a showing of exceptional circumstances.

LR 47.2. Interrogation of Jurors

Attorneys, parties or anyone acting for them or on their behalf shall not, without filing a formal petition therefor with the court and securing the court's permission, interrogate jurors, or alternate jurors, either in person or in writing, relative to actions in which they have served.

LR 54.1. Taxation of Costs

(a) Bill of Costs.

(1) Time for Filing. A prevailing party who desires to tax costs must file with the court, within fifteen days of the date of the judgment or other final order, or within ten days after the issuance of a mandate by a federal appellate court, a verified bill of costs, on the appropriate official form, with a copy provided to opposing counsel.

(2) Contents. Such bill of costs shall distinctly set forth each item of costs so that the nature of the charges can be readily understood and otherwise shall comply with the provisions of 28 U.S.C. §§ 1821, 1920, 1923 and 1924.

(b) Taxation of Costs By Clerk. The clerk, upon the receipt of the verified bill of costs, shall promptly tax such costs in conformity with the provisions of 28 U.S.C. §§ 1920, 1921, and 1923, and such other provisions of law as may be applicable, and this Court's Standing Order Relative to Taxation of Costs (a copy is attached as an appendix to these rules). This order limits only the authority of the clerk to assess costs for certain items otherwise taxable under Section 1920 but does not limit a prevailing party's ability to recover under the statute.

The clerk shall serve copies of the bill of costs as allowed on all parties in accordance with Fed.R.Civ.P. 5(b).

(c) Motion to Re-tax Costs. Any party may, within five days of the taxation of costs by the clerk, see Fed.R.Civ.P. 54(d) (1), file a motion to re-tax costs. Such motion shall identify with specificity which portions of the clerk's taxation are the subject of the objections and the reasons therefor.

(d) Failure to Comply. Failure to comply with the time limitations of this Rule shall constitute a waiver of costs, unless otherwise ordered by the court.

LR 54.3. Award of Attorneys' Fees

If a final judgment, including a judgment made final under Fed.R.Civ.P. 54(b), does not determine (or establish other procedures for determining) the propriety of the amount of attorneys' fees authorized by statute or the equitable or inherent powers of the court, the following procedures shall apply:

(a) Written Motion Required. The award of such fees (and expenses incident thereto not ordinarily allowable as taxable costs) shall be requested by special written motion addressed to the court, and shall not be included in a cost bill or motion for taxation of costs, or in a motion under Fed.R.Civ.P. 50(b), 52(b), or 59.

(b) Time For Filing. The motion shall be filed and served at least ten days prior to the expiration of the time within which opposing parties can file a timely notice of appeal from the judgment under Fed.R.App.P. 4(a)(1), (3-6).

(c) Contents of Motion. The motion shall specify the judgment and the statute or other grounds on the basis of which entitlement to the award is claimed and shall state the amount (or provide a fair estimate of the approximate amount) of the fees and expenses sought. Within thirty days (or such other period as ordered by the court) after filing the motion, the movant shall file and serve a detailed specification and itemization of the requested award, with appropriate affidavits and other supporting documentation.

(d) Hearing on Motion. Hearings on the motion may be conducted by the court in accordance with applicable law.

(e) Filing Deadlines Not Effected. Pendency of a motion filed under this rule does not extend the time for appealing from, or for filing a motion under Fed.R.Civ.P. 50(b), 52(b), or 59, directed to the judgment giving rise to the claim for attorneys' fees, but may be taken into consideration by the court in ruling on a motion for extension of time for appeal filed under Fed.R.App.P. 4(a)(5).

LR 67.1. Guidelines for the Deposit of Funds

(a) Registry Deposits. Pursuant to Fed.R.Civ.P. 67, all funds to be deposited with the Court, with the exception of criminal cash bail, cost bonds, and civil garnishments, shall be deposited in accordance with the provisions of Rule 67, 28 U.S.C. §§ 2041 & 2042, 31 U.S.C. § 725v, and any other applicable law.

(b) Order and Directions for Deposit. Any party depositing money into the court must serve the clerk with a court order and notice in accordance with the provisions of Fed.R.Civ.P. 67. The order must specify the amount to be invested, the type of investment, the rate of interest, and the name of one of the institutions approved for deposit, a list of which is on file with the clerk of court, or as otherwise approved by the court, into which the money is to be deposited. If the clerk is not served with an order in accordance with this rule upon tender of the moneys to be deposited, the clerk will deposit funds into the court's non-interest bearing registry account until further order of the court directing how to invest the funds.

(c) Non-interest Bearing Deposits. Cost bonds, and other bonds in the form of cash such as admiralty costs bonds, injunction costs bonds, and supersedeas bonds, are not subject to Fed.R.Civ.P. 67, nor are civil garnishment payments. Funds not subject to Rule 67 will not be deposited in interest bearing accounts, except on the special order of the court, and shall be handled in accordance with applicable laws, rules and such directives as the Administrative Office of the United States Courts may prescribe.

(d) Approved Depository Institutions. The court must approve and designate those institutions which can receive and act as depositories of funds deposited with this Court so long as the institution is and remains at the time of the deposit approved for the deposit of federal funds in accordance with all applicable laws, rules and regulations regarding the deposit of public funds. A list of such institutions is on file with the clerk of court and is available from the office of the clerk.

(e) Disbursement of Funds. Funds deposited by the clerk in accordance with this rule will be disbursed only with prior order of the Court signed by a district judge of this court. Funds will not be disbursed until counsel has furnished to the clerk, in writing, the social security number, or tax identification number of any and all recipients of more than ten dollars ($10.00) of the interest accrued.

(f) Designated Fiduciary Officers. The clerk of court, and chief deputy clerk are the fiduciary officers of this Court, and have the authority to sign account checks and/or withdrawal slips from interest bearing accounts. Disbursements will not be made

without an order of the court.

(g) Fees Assessed on Accounts. The clerk will deduct a fee from the interest earned by any deposit made in accordance with this rule. The fee will be calculated as authorized and directed by the Judicial Conference of the United States, and the Administrative Office of the United States Courts. The fee will be deducted when the interest becomes available and prior to the final disbursement of funds.

LR 67.4. Federal Practice Fund

(a) Purpose of Fund. A Federal Practice Fund shall be maintained by the clerk of court to compensate appointed counsel in civil rights actions for those expenses authorized by prior order of the judge to whom the action is assigned, and reasonably incurred. Compensation from this fund is not authorized for attorney's fees for in-court or out-of-court time or for expenses for which any other source of payment exists.

(b) Source and Administration of Funds. The funds generated from the admission fees required by SD ALA LR 83.5© shall be used to establish the Federal Practice Fund. The Federal Practice Fund shall be maintained in a separate and discrete account by the clerk of court under the same rules and requirements as the Special Attorney Admission Fund, and applicable rules, guidelines and statutes.

(c) Authorization for Payment. Funds from the Federal Practice Fund shall be paid out on the order of the chief district judge or his designee, in an amount and with a priority determined by such district judge in light of the condition of the Federal Practice Fund and any other pending, or anticipated requests.

(d) Requests for Payment. All requests for payment from this fund shall first be submitted in writing to, and authorized by the judge assigned to the action. The assigned judge's written authorization shall then be forwarded to the chief judge, or his designee, for action in accordance with subsection(c)above.

VI. SPECIAL PROCEEDINGS

LR 72.1. Magistrate Judges

(a) Duties Under 28 U.S.C. § 636. Each full-time magistrate judge of this Court is authorized to perform the duties prescribed by 28 U.S.C. § 636 to the full extent authorized by law.

(b) Disposition of Misdemeanor Actions--18 U.S.C. § 3401.

(1) By Full-Time Magistrate Judges. A full-time magistrate judge may:

(A) Try persons accused of, and sentence persons convicted of, misdemeanors, petty offenses and violations committed within this district in accordance with 18 U.S.C. § 3401; and

(B) Direct the probation service of the court to conduct a presentence investigation in any misdemeanor action.

(2) By Part-Time Magistrate Judges. Designation of part-time magistrate judges to conduct duties under 18 U.S.C. § 3401 shall be made by specific order as circumstances may require.

(c) Prisoner Actions Under 28 U.S.C. §§ 2254 and 2255. A full-time magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States District Courts under 28 U.S.C. §§ 2254 and 2255. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition or motion by the district judge. A magistrate judge may hear and determine actions brought under 28 U.S.C. § 2255 in which he or she entered judgment by the consent of the parties in the underlying criminal prosecution.

(d) Prisoner Actions Under 42 U.S.C. § 1983. A full-time magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of complaints filed by prisoners challenging the conditions of their confinement.

(e) Special Master References. A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil actions in accordance with 28 U.S.C. § 636(b)(2) and Fed.R.Civ.P. 53. Upon the consent of the parties a

magistrate judge may be designated by a district judge to serve as a special master in any civil action, notwithstanding the limitations of Fed.R.Civ.P. 53.

LR 72.2. Referral of Matters to Magistrate Judges

(a) Purpose of Rule. It has long been the practice of this Court to refer certain matters to the full-time magistrate judges by standing order rather than individual orders of reference in each action. This Rule continues that practice and is intended to authorize the clerk to refer to the full-time magistrate judges the following matters without any additional orders of reference.

(b) Criminal Actions.

(1) Misdemeanor Actions. All actions initiated as misdemeanors, petty offenses, or violations shall be automatically referred for all purposes including trial and entry of judgment. All proceedings shall be conducted in accordance with the provisions of 18 U.S.C. § 3401 and Fed.R.Crim.P. 58. Should a defendant fail to consent to proceed before a magistrate judge, the action will be reassigned to a district judge after the magistrate judge has ruled on all preliminary matters.

(2) Felony Actions. Grand jury reports shall be returned to a full-time magistrate judge. It shall then be the responsibility of the magistrate judges to conduct arraignments, pretrial conferences or hearings as are necessary, determine all non-dispositive motions, and set a jury selection and trial date, in accordance with 28 U.S.C. § 636.

(c) Civil Actions.

(1) Non-dispositive Pretrial Matters. All civil actions shall be automatically referred for the purpose of conducting a pretrial conference and the entry of a Fed.R.Civ.P. 16(b) scheduling order. The referral shall also be for the purpose of hearing and determining all non-dispositive pretrial motions.

(2) Consent Actions. Where the parties consent to trial and disposition of an action by a magistrate judge under 28 U.S.C. § 636(c), the action shall, with the approval of the district judge to whom it is assigned, be reassigned to a magistrate judge for the conduct of all further proceedings and the entry of judgment.

(3) Social Security Actions. All appeals from decisions of the Commissioner of Social Security and attendant applications for attorney's fees shall be automatically referred for a recommendation as to the appropriate disposition of the appeal and all requests for fees.

(4) Prisoner Actions. All prisoner actions filed pursuant to 42 U.S.C. § 1983 attacking conditions of confinement, and habeas corpus actions attacking State convictions filed pursuant to 28 U.S.C. § 2254 (except death cases), shall be automatically referred for hearing and the submission of a recommendation as to the appropriate disposition as authorized by 28 U.S.C. § 636(b)(1)(B) and 28 U.S.C. foll. § 2254, Rule 8(b)(1). Also, motions attacking sentences imposed by the magistrate judges, filed pursuant to 28 U.S.C. § 2255, shall be automatically referred.

(5) Withdrawal of Registry Funds. Any motion or request for the court to enter an order to withdraw registry funds in any of the following actions shall be automatically referred:

(A) Actions proceeding before a magistrate judge by consent of the parties pursuant to 28 U.S.C. § 636(c);

(B) Misdemeanors, petty offenses, and violations proceeding before a magistrate judge pursuant to 18 U.S.C. § 3401 and 28 U.S.C. § 636(a)(3);

(C) Bail release proceedings in which a magistrate judge has ordered bail money to be deposited into court pursuant to 18 U.S.C. § 3141 *et. seq.* and 28 U.S.C. § 636(a)(3); and

(D) Non-dispositive pretrial matters referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A).

(d) Modifications by District Judges. Nothing in these rules shall preclude a district judge from reserving any of the matters otherwise automatically referred to the magistrate judges, or modifying the method of assigning matters to a magistrate judge, as changing conditions warrant.

LR 72.3. Appeal of Nondispositive Matters

(a) Scope of Rule. This rule applies to motions for reconsideration referred to in 28 U.S.C. § 636(b)(1)(A) and to objections referred to in Fed.R.Civ.P. 72(a).

(b) Statement of Appeal and Briefs. As provided in Fed.R.Civ.P. 72(a), a party wishing to appeal an order entered by a magistrate judge in a nondispositive matter, that is, those matters not excepted by 28 U.S.C. § 636(b)(1)(A), may file a "Statement of Appeal of Magistrate Judge's Order" within ten days after being served with a copy of the order, unless a different time is established by order. The statement of appeal shall set forth specifically the order or portion thereof appealed from and the basis of the appeal. The appealing party shall submit to the district judge at the time of filing the appeal a brief setting forth the party's arguments that the magistrate judge's order is clearly erroneous or contrary to law. It is insufficient to submit only a copy of the original brief submitted to the magistrate judge, although a copy of the original brief may be submitted or referred to and incorporated into the appeal brief. Failure to submit a brief in support of the appeal may be deemed an abandonment of the appeal.

(c) Brief of Opposing Party. Unless otherwise ordered, when an appeal of a nondispositive order has been filed, the opposing party or parties may submit briefs in opposition to the appeal within ten days of being served with a copy of the statement of appeal, arguing that the order of the magistrate judge is not clearly erroneous or contrary to law.

(d) Evidence on Appeal. If evidentiary materials were filed or received in evidence at the time of the magistrate judge's determination of the matter, the materials may be referred to in the briefs and need not be refiled or reoffered. There shall be no additional evidentiary material submitted unless ordered in matters of detention. *See* LR 72.5(a)(3).

(e) Scope of Review. The district judge shall modify, set aside, or remand to the magistrate judge any nondispositive order or portion thereof found to be clearly erroneous or contrary to law.

(f) Stay Pending Appeal. The filing of a statement of appeal does not act as an order staying operation of the magistrate judge's order pending appeal. Any motion for a stay pending appeal shall be filed and promptly delivered in the first instance to the magistrate judge whose order is appealed; if the magistrate judge denies the motion for a stay, the motion may be addressed to the assigned district judge.

LR 72.4. Objections to Recommendation In Dispositive Matters

(a) Objecting Party. A party may object to a recommendation entered by a magistrate judge in a dispositive matter, that is, a matter excepted by 28 U.S.C. § 636(b)(1)(A), by filing a "Statement of Objection to Magistrate Judge's Recommendation" within ten days after being served with a copy of the recommendation, unless a different time is established by order. The statement of objection shall specify those portions of the recommendation to which objection is made and the basis for the objection. The objecting party shall submit to the district judge, at the time of filing the objection, a brief setting forth the party's arguments that the magistrate judge's recommendation should be reviewed de novo and a different disposition made. It is insufficient to submit only a copy of the original brief submitted to the magistrate judge, although a copy of the original brief may be submitted or referred to and incorporated into the brief in support of the objection. Failure to submit a brief in support of the objection may be deemed an abandonment of the objection.

(b) Opposing Party's Response. Unless otherwise ordered, any opposing party may submit a brief opposing the objection within ten days of being served with a copy of the statement of objection.

(c) Evidentiary Materials. If evidentiary materials were filed or received in evidence at the time of the magistrate judge's determination of the matter, such materials may be referred to in the briefs and need not be refiled or reoffered. There shall be no additional evidentiary materials submitted in connection with the objection; however, if an evidentiary hearing was held before the magistrate judge, the district judge may convene a supplemental hearing to consider the additional evidence, if the party making request therefor demonstrates good cause why the evidence was not adduced before the magistrate judge.

(d) Remand. If the district judge remands the matter to the magistrate judge, a subsequent recommendation of the magistrate judge shall also be subject to objection in accordance with this rule.

(e) Failure to Object To Findings of Fact. Counsel and parties are cautioned that the failure to object to a finding of fact in a magistrate judge's recommendation in a dispositive matter may be construed as a waiver of that party's right to appeal the order of the district judge adopting the recommendation as to the particular finding of fact.

LR 72.5. Review of Magistrate Judge's Orders In Specific Matters

(a) Detention Matters.

(1) When a detention order has been entered by a judge of another district in a criminal action pending in this Court, review of such detention order pursuant to 18 U.S.C. § 3145(b) shall be conducted by the magistrate judge in this district to whom the action has been referred or assigned.

(2) When a detention or release order has been entered by a magistrate judge in a criminal action pending in this Court pursuant to a hearing held under 18 U.S.C. § 3142(f), any motion to "reopen" the proceeding as provided in that section shall be considered a motion for the magistrate judge to review the matter of release or detention.

(3) When reviewing a magistrate judge's order of detention or release, a district judge may hear and consider additional evidence not considered by the magistrate judge if that evidence was not available to be presented to the magistrate judge at the time of the hearing held pursuant to 18 U.S.C. § 3142(f) or for other good cause shown. In the alternative, the district judge may remand the matter to the magistrate judge to reopen the hearing. Unless additional evidence is received on review, the district judge shall review an order of release or detention de novo on the record made before the magistrate judge.

(b) Special Master Reports. When a magistrate judge has been designated as a special master with the consent of the parties under Fed.R.Civ.P. 53(b), or without the consent of the parties under the provisions of 28 U.S.C. § 636(b)(2), any party may seek review of or action on the special master's report filed by the magistrate judge in accordance with the provisions of Fed.R.Civ.P. 53(e).

VII. GENERAL PROVISIONS

LR 79.1. Removal of Court Files and Exhibits

(a) Criminal Files. Court files in criminal actions, and the papers and documents filed therein, may not be removed from the clerk's office by any attorney or party at any time; however, court reporters who are employees of this Court, may check out a file with attendant papers for the purpose of preparation of a transcript for appeal, provided that such files or attendant papers shall be returned at the time the transcript is filed, or sooner. The integrity of such files checked out by court reporters shall be maintained and when returned shall be in the same form as when withdrawn.

(b) Civil Files. Court files in pending civil actions, and the papers and documents filed therein, may not be removed from the clerk's office by any attorney or party at any time.

(c) Closed Civil Files. Court files in closed civil actions, and the papers and documents filed therein, may be checked out by a member of the bar of this Court only after the expiration of the time for any appeal. Files shall be returned within the time specified by the clerk. The integrity of such files shall be maintained and when returned shall be in the same form as when withdrawn.

(d) Files of Actions on Appeal. Court files, both civil and criminal, and the papers and documents filed therein, including exhibits and transcripts, which are on appeal may not be removed from the clerk's office by any attorney or party *unless* the record has been retained in the district court pursuant to Rule 11(c), Federal Rules of Appellate Procedure, or, unless otherwise directed by the Eleventh Circuit Court of Appeals.

LR 79.2. Custody of Sensitive Exhibits Offered as Evidence

(a) Generally. In both civil and criminal actions, all exhibits filed with the court of a sensitive nature, e.g. controlled substances, cash, counterfeit currency, precious stones and metals, weapons, ammunition, volatile, poisonous and hazardous substances, and all other exhibits, which, because of their size or nature require special handling, which are received as evidence, shall be promptly returned by the clerk to the custody of the offering party or investigating agency upon the rendering of a verdict in a jury action or upon the entering of the final order in a non-jury action. The clerk shall obtain a receipt for all such returned exhibits and shall place same in the court file.

(b) Matters on Appeal. In the event of an appeal, it shall be the duty of the party, investigating agency or the United States Attorney to whom such exhibits have been delivered to produce same as may be required for such appellate process or other or further proceedings in this Court. It shall also be the responsibility of the investigating agency or the United States Attorney to document the chain of custody for each returned exhibit during the time permitted for filing an appeal and during the pendency of an appeal filed in compliance with Fed.R.Crim.P.3.

LR 83.4. Broadcasting, Photographing, and Recording

(a) General Prohibition. Broadcasting, televising, recording (audio and/or visual), or taking photographs in connection with any judicial proceeding within the United States Courthouses in Mobile and Selma, Alabama is prohibited, whether or not such proceedings are actually in session, except as provided in subsections (b) and (c)below.

(b) Exceptions. The court, acting in its discretion, may authorize the use of such means in the following instances:

(1) Evidentiary Presentation, and Perpetuation of the Record. The court may authorize the use of electronic or photographic means:

(A) for the presentation of evidence; and

(B) for the perpetuation of the record. No court reporter, or other person shall use or permit to be used any recording made for the purpose of perpetuating the record for any other purpose.

(2) Special events. The court may authorize the broadcasting, televising, recording or photographing of investitive, ceremonial or naturalization proceedings, law school moot court proceedings, and activities sponsored by the bar association for continuing legal education.

(c) Possession of Equipment in the Courthouse.

(1) Prohibition. Video or sound recording, photographic, radio or television broadcasting equipment shall not be possessed within the courthouses, unless expressly authorized by a judge or the clerk of this court, or as provided below in subsections (c)(2) and (3).

(2) Exception for Attorney Dictation Equipment. Attorneys admitted to practice before this Court are authorized to possess dictating equipment in the courthouse. Any dictating equipment possessed by an attorney in the courthouse may be used only in the Attorney's Lounge, a witness room, the library or the office of the clerk. Use of such equipment in the library or offices of the clerk is subject to regulation by court personnel.

(3) Court Personnel and Other United States Personnel. Court personnel or other employees of the United States may possess and use such equipment as is required in the scope and course of their government employment. Any recording made in connection with official court or U.S. government business may not be used for any other purpose without the express written authorization of the court. Employees of the United States Attorney's Office may possess and utilize any such equipment

within the scope and authority of their position in space occupied by the United States Attorney within the courthouse, subject to any restrictions imposed by the United States Attorney.

LR 83.5. Admission to Practice

(a) Members. The Bar of this Court consists of those persons previously admitted to, and not removed from, the Bar of this Court and of those persons who hereafter are admitted under this rule.

(b) Members of the Alabama Bar. Any attorney who is admitted to practice before the Supreme Court of Alabama and who is in good standing, may be admitted to the Bar of this Court upon submission of an application, payment of the prescribed admission fee, and

(1) the order of a district judge of this Court, on oral or written motion by a member of the Bar of this Court or on the court's own motion, and the administering of the prescribed oath before any district judge, or other designee of this Court; or

(2) the filing of a certificate of good standing from the clerk of the United States District Court located within the State of Alabama for the district in which the applicant resides or regularly practices law.

(c) Out of State Attorneys. Any attorney who is not a member of the Bar of this Court but who is admitted to practice before the United States District Court for the district in which (or before the highest court in the state in which) such person resides or regularly practices law, and who is in good standing, may apply for admission *pro hac vice* by an order of any district judge or bankruptcy judge of this Court and shall pay the prescribed admission fee. Any such attorney who appears as counsel by filing any pleading or paper in any action pending in this Court shall, within ten days thereafter, apply for admission *pro hac vice* as set out in the appendix hereto, and pay the prescribed admission fee.

(d) Attorneys Employed by the United States. Any attorney representing the United States or any agency thereof, having the authority of the government to appear as its counsel, may appear specially and be heard in any action in which the government or such agency is a party, without formal or general admission.

(e) Attorneys Employed by Local Federal Defender. Any attorney employed by the Federal Defender Organization of this district may appear specially and be heard in any action in which the Federal Defender has been appointed without formal or general admission.

(f) Professional Conduct. Any attorney who is admitted to the Bar of this Court or who appears in this Court pursuant to subsection (b), (c), (d) or (e) of this rule shall agree to read and abide by the Local Rules of this Court, the ethical limitations and requirements governing the behavior of members of the Alabama State Bar, and, to the extent not inconsistent with the preceding, the American Bar Association Model Rules of Professional Conduct.

(g) Compliance. In all actions filed in, or removed to, this Court, parties may be represented of record only by a member of the Bar of this Court or by an attorney permitted to appear pursuant to subsection (b), (c), (d) or (e) of this rule.

(h) Duration of Representation. Unless disbarred or suspended, attorneys shall be held at all times to represent the parties for whom they appear of record in the first instance until, after formal motion and notice to such parties and to opposing counsel, they are permitted to withdraw from such representation. The court may, however, permit withdrawal without formal motion and notice if other counsel has entered his or her appearance for the party.

LR 83.6. Attorney Discipline

(a) Generally. For good cause shown and after an opportunity to be heard, a member of the bar of this Court may, by a district judge of this Court, be disbarred or suspended from practice in this Court, be reprimanded, or be subjected to such other discipline as the judge may deem proper.

(b) Reciprocal Disciplinary Action. Whenever it is made known to the court that any member of its bar has been disbarred or suspended from practice in any court, or convicted of a felony in any court, such member shall forthwith be suspended from practice in this Court; and, unless after notice mailed to his last known place of residence, such member shows good cause to the contrary within thirty (30) days, there shall be entered an order of disbarment, of indefinite suspension or of suspension for such time as this Court shall fix.

(c) Resumption of Practice Following Suspension. Any person suspended from practice in this Court for a definite period of time shall, in the absence of another order of this Court, be entitled to resume practice in this Court upon the expiration of the period of suspension.

(d) Readmission Following Disbarment. Any person disbarred or indefinitely suspended from practice in this Court may file a written petition for readmission or reinstatement.

(1) The petition shall include a full, objective statement of the background and basis of the discipline, if any, imposed on the petitioner by the appropriate bar association or court which might have preceded petitioner's disbarment or suspension in this Court.

(2) The petition shall be heard by a district judge or a panel of district judges of this Court appointed by the Chief Judge to consider such petitions.

(e) Requirements on Readmission. Any person disbarred from practice in this Court and subsequently readmitted shall take the oath and pay the fee then prescribed and sign the roll of attorneys for this district.

LR 83.7. Retained Criminal Defense Attorneys

(a) Financial Arrangements; Notice When Arrangements Are Unsatisfactory. Retained criminal defense attorneys are expected to make financial arrangements satisfactory to themselves and sufficient to provide for representation of their client until the conclusion of the client's action. Unless the court, within ten days after arraignment, is notified in writing of counsel's withdrawal because of defendant's failure to make satisfactory arrangements, the court will expect counsel to represent the defendant through the conclusion of the client's action, as defined in subsection (b) hereof. Failure of a defendant to pay sums owed for attorney's fees or failure of counsel to collect the sum sufficient to compensate for all the services usually required of defense counsel will normally not constitute good cause for withdrawal after said ten-day period has expired.

(b) Conclusion of Client's Action.

(1) Unless otherwise ordered by the court, the conclusion of the client's action occurs when the client is acquitted, sentenced, or the action is dismissed. In the event that a defendant in a criminal action is convicted, retained counsel shall advise the defendant of his right to appeal and of his right to counsel on appeal. If requested to do so by the defendant, counsel shall file a timely notice of appeal. If not so requested by the defendant, counsel shall file a statement that he has informed the defendant of his right to appeal and that the defendant has advised him that he does not desire to appeal, and thereupon his appointment will terminate.

(2) Representation by retained counsel in other proceedings shall terminate when the purpose of the representation is accomplished or when terminated by court order.

(c) Appeal. Retained counsel may be required by the court to represent their client through appeal, even if no further payment from the client is available. Counsel should contemplate that circumstance in making financial arrangements with the client at the beginning of the action. If a defendant who had retained counsel at trial moves the court to proceed on appeal *in forma pauperis* and/or for the appointment of Criminal Justice Act appellate counsel, retained counsel may be required to disclose, *in camera*, (1) the total amount of fees and costs paid, (2) by whom fees and costs were paid, (3) the costs actually incurred, and (4) the hours expended and services actually rendered. All such information submitted will be viewed *in camera* by the court for the purpose of deciding the defendant's *in forma pauperis* motion and in deciding whether retained counsel should be required to continue representation through appeal.

LR 83.8. Appointed Criminal Defense Attorneys

(a) Duties.

(1) Counsel appointed under the Criminal Justice Act Plan participate in the plan in fulfillment of their professional responsibilities as officers of the court, and the limited amount of compensation accruing in no respect diminishes that responsibility.

(2) Appointed counsel shall continue to serve until his representation is terminated as provided by the plan or by court order.

(3) Appointed counsel shall report to the court any change in his client's financial status, that comes to his attention, where it appears that the client is able to finance all or a part of his representation.

(b) Termination of Appointment.

(1) In the event that a defendant in a criminal action is convicted following trial, counsel appointed hereunder shall advise the defendant of his right to appeal and of his right to counsel on appeal. If requested to do so by the defendant, counsel shall file a timely notice of appeal, and he shall continue to represent the defendant unless or until he is relieved by court order. If not so requested by the defendant, counsel shall file a statement that he has informed the defendant of his right to appeal and that the defendant has advised him that he does not desire to appeal, and thereupon his appointment will terminate.

(2) Representation by appointed counsel in other proceedings shall terminate when the purpose of the appointment is accomplished or when terminated by court order.

(c) Guidelines As To Maximum Compensation. The clerk shall maintain a schedule of guidelines for maximum compensation to be allowed by the court, not to exceed that provided in 18 U.S.C. § 3006A.

(d) Authorization for Expert or Other Services. Prior court authorization is required before obtaining services or incurring any expense such as reporters' transcripts, interpreter, investigator, psychiatrist or other expert services. The attention of counsel is called to the maximum fees therefor contained in 18 U.S.C. § 3006A(e)(3). Appropriate forms may be obtained from the office of the clerk.

LR 83.9. Actions by Persons Proceeding Without Counsel

(a) Scope of Rule. This rule shall apply to all actions commenced with complaints or petitions which have not been signed by an attorney.

(b) Compliance With Other Rules. All litigants proceeding *pro se* shall be bound by and comply with all local rules of this Court, and the Federal Rules of Civil and Criminal Procedure, unless otherwise excused from operation of the rules by court order.

(c) Address and Whereabouts of *Pro Se* Litigants. Any person proceeding in this Court *pro se* shall, at all times during the pendency of the action to which he or she is a party, keep the court informed of his or her current address and telephone number, and shall promptly inform the court of any change in such address. A party's failure to comply may result in the dismissal of the party's action for failure to prosecute and obey the rules of this Court.

(d) Form of Pleading; Copies; Submission of Exhibits.

(1) All pleadings filed by persons proceeding *pro se* shall be filed on forms provided by the court, or in a form substantially conforming to such forms, unless otherwise ordered by the court. Pleadings shall be typed or legibly handwritten or printed on one side only of 8-1/2-inch by 11-inch paper, leaving at least one-inch margin at the top of each page. The court may provide written guidelines to persons proceeding *pro se* for use in preparation of pleadings.

(2) The clerk of the court is not authorized to provide free copies of pleadings to the person submitting them for filing. Persons submitting pleadings shall retain copies for their personal use.

(3) Persons submitting pleadings to the court may submit documents or other appropriate materials as exhibits to those pleadings, when such documents would be of assistance to the court in reviewing the claim or claims presented by such pleadings, or when directed to submit such documents or materials by order of the court. Exhibits so submitted shall be clearly identified with letters or numbers, which identification shall appear in the lower left-hand corner of the first page of the exhibit. No person shall submit exhibits to the court for filing unless said exhibits are attached to a proper pleading or an affidavit authorized by the Federal Rules of Civil Procedure or the Local Rules of this Court. Exhibits otherwise submitted will not be filed or otherwise considered by the court and will be returned by the court to the person submitting them.

(e) Failure To Appear. Unless an extraordinary cause is shown, if any person who is proceeding *pro se* fails to appear at a pretrial conference, hearing or at trial, the court may dismiss the case with prejudice, unless the absence of the person has been excused by the court sufficiently in advance of the pretrial conference, hearing or trial so that notice may be given to the opposing parties and/or their counsel at least twenty-four hours in advance of the scheduled proceeding.

(f) Witnesses.

(1) Parties Proceeding *In Forma Pauperis*. In all civil and criminal actions of any kind proceeding *in forma pauperis*, if the indigent party desires the procurement of the attendance of any witness by subpoena or writ, he shall file (and, except in criminal actions, serve) -- not later than twenty (20) days before the trial or hearing -- a witness list containing names and addresses of witnesses (and inmate or civilian status and number if available) and a brief statement of the expected testimony of each witness (if their stated testimony is not material or is simply repetitive, the court may in its discretion decline to order the procurement of the witness).

(2) 2254 and 2255 Actions. In actions under 28 U.S.C. §§2254 and 2255, and indigent criminal actions, the witness and Marshal's service fees and expenses for the subpoena of all witnesses, parties or not, ordered subpoenaed shall be paid by the United States Marshal from United States funds.

(3) Other Actions. In all other actions, witnesses subpoenaed upon order issued at the request of the indigent will **not** be paid by the United States. Witnesses shall be subpoenaed as provided by Rule 45 of the Federal Rules of Civil Procedure and fees tendered accordingly. If no tender is made as required by Rule 45, when the subpoena is served, the witness shall not be penalized for failure to attend; however, if the witness honors the subpoena and the subpoenaing party recovers his costs, then the witness shall be entitled to payment of his fees from the recovered costs on application from the clerk.

(4) Writs of Habeas Corpus *Ad Testificandum* and *Ad Prosequendum*. Where inmates are produced in response to the writs of habeas corpus *ad testificandum* and *ad prosequendum*, the party having custody of the inmate shall, at its expense, produce him at the time and place named in the writ. No witness produced pursuant to a writ shall be paid any witness fees. 21 U.S.C. §1821(f).

VIII. ADMIRALTY LOCAL RULES

LAR 1. Applicability

These rules apply to the procedure in claims governed by the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure (hereafter "Admiralty Supplemental Rules"). They may be cited as "SD ALA LAR _____".

LAR 2. Deposit of Fees with Marshal

No process *in rem* in an action provided for in the Admiralty Supplemental Rules shall be served, except on behalf of the United States, or on special order of the court, unless the party seeking the same shall deposit with the Marshal for this district such sums as may be required by the Marshal as a partial advance against attachment and custodial costs.

LAR 3. Advertisement of Seizure

If a vessel or other property seized under maritime process is not released within ten days following seizure, the plaintiff shall promptly have public notice of the action and arrest made in a newspaper of general circulation in the district three times a week for two consecutive weeks, said notice to begin not later than twenty days following seizure.

LAR 4. Verification of Pleadings

Every complaint and claim under the Admiralty Supplemental Rules shall be verified on oath or affirmation by a party or an officer of a corporate party. If no party, or corporate officer thereof, is within the district, verification of a complaint or claim may be made by an agent, attorney-in-fact or attorney of record, who shall state briefly the sources of his knowledge, information and belief, declare that the document affirmed is true to the best of his knowledge, information and belief, state the reason why verification is not made by the party or corporate officer, and state that he is authorized so to act. Any such verification will be deemed to be that of the party, as if verified personally. Any interested party may move, with or without a request for stay, for the personal oath of a party or all parties, or that of a corporate officer. If required by the court, such verification shall be procured by commission or as otherwise ordered.

LAR 5. Jury Trials in Actions Containing Claims Within the Purview of Fed.R.Civ.P. 9(h)

In any action in which a maritime claim within the meaning of Fed.R.Civ.P. 9(h) is asserted and a jury trial is also demanded, each plaintiff shall elect, at or before the pretrial conference or at such other time as the court may direct, whether he will proceed under Fed.R.Civ.P. 9(h) and the Admiralty Supplemental Rules, if appropriate, or proceed without benefit of the Supplemental Rules in order to have the issues tried by jury.

If no election is made by a plaintiff at the pretrial conference, said plaintiff will be deemed to have elected to have trial by jury, and any and all process issued at plaintiff's request pursuant to the Admiralty Supplemental Rules will be quashed five days after the clerk has given notice to all counsel of record.

For the purposes of this rule, the word "plaintiff" shall include any party asserting a claim for affirmative relief.

LAR 6. Intervention

(a) Lien or Attachment. Whenever a vessel or other property is seized, attached or arrested and is in the custody of the court, anyone asserting a maritime lien or a writ of foreign attachment against the vessel or property may proceed only by intervention, unless otherwise ordered by the court. Upon the timely filing of each complaint in intervention, the clerk, or counsel who files same, shall forthwith deliver a copy thereof to the Marshal who shall post such copy on the vessel or property, but the Marshal need not re-arrest or re-attach the vessel or property. At the time of filing of a complaint in intervention, counsel for intervening parties are required to ascertain the names and addresses of other counsel of record in the proceedings, and are required to serve a copy of the complaint in intervention upon all counsel of record, and shall file a certificate with the clerk setting forth the names and addresses of counsel served, method of service and the date thereof.

(b) Intervention by Maritime Lienholder. Any party asserting a maritime lien or writ of foreign attachment may intervene without the filing of a motion for leave to intervene where a vessel or other property has been arrested or attached and it or the proceeds of sale thereof are within the jurisdiction of the court.

(c) Costs. Intervenors under this rule shall be liable for costs together with the party originally effecting seizure on any reasonable basis determined by the court. Intervenors may be required by the Marshal to advance their share of reasonable accrued costs and reasonable unaccrued advance costs, giving due deference to the respective amounts of the various claims. Relief from such assessment may be granted by the court upon motion.

(d) Effect of Release of Seizure. Release of seizure or dismissal by the party originally effecting seizure shall not quash the seizure if there remain pending claims by intervenors, unless by unanimous consent of intervenors or order of court.

(e) Time for Filing Claims in Intervention. All claims in intervention are to be filed within 30 days after sale of a vessel or property. Claims not timely filed are to be paid out of the proceeds of a sale only after the payment of all timely filed valid claims and costs.

LAR 7. Notice of Sale

Notice must be given by the Marshal of the sale of property by order of this Court, and such notice must be by advertisement in a newspaper of general circulation within the division of this district in which the sale will take place, unless otherwise ordered by the court. Such notice shall be published three times a week for two consecutive weeks with the last date of publication not more than twenty nor less than five days immediately preceding the sale. In addition thereto, publication may be made elsewhere or in specialized trade publications. The notice of sale shall state the last date on which claims may be filed against the vessel or property or proceeds of sale of same, as provided in Local Admiralty Rule 6(e). Unless extraordinary circumstances exist, no vessel shall be sold within less than 30 days after same has been seized.

LAR 8. Judicial Sale: Return by Marshal

Payment of the proceeds of the sale shall be made to the order of the United States Marshal, who shall promptly pay the proceeds into the registry of the court. Upon the payment of the proceeds of sale of seized property into the registry of the court, the clerk shall forthwith direct the custodian of the vessel or seized property to send written notice within five days to all persons known by him to have claims for charges incurred while the vessel or property was in the custody of the court, and to notify such persons of the necessity of filing claims within ten days of the mailing of such notice.

LAR 9. Confirmation of Sale

In all sales by the Marshal pursuant to orders of sale under the Admiralty Supplemental Rules, the Marshal shall report to the court the fact of sale, the price brought, and the name of the buyer. If within five days after the sale, *see* Fed.R.Civ.P.6(a) (computation of time), no written objection is filed, the same shall automatically stand confirmed if the buyer has performed the terms of his purchase.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

_____
[Caption and Names of Parties]
v. Case No. _____

_____

REPORT OF PARTIES PLANNING MEETING

Pursuant to Fed.R.Civ.P. 26(f), a meeting was held on _____ at _____ and was attended by:
(date) (place)
_____for plaintiff(s)_____
(names) (party name)

_____ for defendant(s)_____
(names) (party name)

The parties ____request, ____do not request a conference with the court before entry of the scheduling order.

1. This ____jury, _____ non-jury action should be ready for trial by _____ and at this time is expected to take approximately _____.
(length of time in days excluding jury selection)

2. The parties request a pretrial conference in_____.
(month and year)

3. Discovery Plan. The parties jointly propose to the court the following discovery plan: (Use separate paragraphs or subparagraphs as necessary if parties disagree.)

Discovery will be needed on the following subjects: (brief description of subjects on which discovery will be needed).
_____
_____
_____

All discovery commenced in time to be completed by _____.
(date)
Discovery on _____(issue for early discovery) to be completed by _____.
(date)

4. Initial Disclosures: The parties _____ have exchanged, _____ will exchange by _____ the information required by Fed.R.Civ.P. 26(a)(1).

5. The parties should be allowed until _____ to join additional parties and amend the pleadings.

6. Reports from retained experts under Rule 26(a)(2) due:
from plaintiff(s) by _____.
from defendant(s) by _____.

7. Pretrial Disclosures. Final lists of witnesses and exhibits under Rule 26(a)(3) should be due by _____.

8. Discovery Limits.

Maximum of ___ interrogatories by each party to any other party. Responses due ___ days after service.

Maximum of ___ depositions by plaintiff(s) and ___ by defendant(s). Each deposition limited to maximum of ___ hours unless extended by agreement of parties.

Maximum of ___ requests for admission by each party to any other party. Responses due ___ days after service.

Maximum of ___ requests for production of documents by each party to any other party. Responses due ___ days after service.

9. All potentially dispositive motions should be filed by _____.

10. Settlement

_____ is likely,
_____ is unlikely
_____ cannot be evaluated prior to _____
_____ may be enhanced by use of the following alternative dispute resolution procedure:

_____

11. Other matters:

_____
_____
_____
_____

Date: _____

Signatures: _____

_____

_____

_____

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN THE MATTER OF	*	
TAXATION OF COSTS	*	
UNDER	*	**STANDING ORDER NO. 13**
FED. R. CIV. P. 54 (d)	*	

ORDER

Costs shall be taxed consistent with these guidelines:

1. Deposition Costs:

(a) The Clerk may tax the cost of an original deposition upon the written representation of counsel for a party claiming the cost that a substantial portion of the deposition was admitted in evidence on the trial of the case.

(b) The clerk shall not otherwise tax the costs of either the original or a copy of a deposition (unless otherwise ordered by the court), and any party desiring to tax the cost of depositions other than those described in subparagraph (a) shall file in writing a motion to retax the costs pursuant to Fed. R. Civ. P. 45 (d) and Local Rule 54.1 and present the matter to the court.[1]

2. Witness Costs:

(a) The clerk shall not (unless otherwise ordered by the court) tax fees for the attendance, subsistence, travel or other expenses incident to the attendance of witnesses in excess of the following:

(1) The attendance fee provided for in 28 U.S.C. § 1821 (b);

(2) The subsistence allowance provided for by 28 U.S.C. § 1821 (d) when an overnight stay is required because the place of attendance is so far from the witness' residence as to

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[1]The provisions of 28 U.S.C. § 1920(2) allow the taxation of fees of a court reporter who prepares a "stenographic transcript necessarily obtained for use in the case."

The trial judge has discretion in determining whether costs of copies are taxable and must decide whether the copies were necessarily obtained for use in the case. U.S. v. Kolesar, 313 F.2d 835, 840 (5th Cir. 1963); generally the costs of copies are not taxable. Vorburger v. Georgia Ry. Co., 47 F.R.D. 571 (M.D. Ala. 1969).

prohibit return thereto from day to day, the amount of this allowance being fixed by 5 U.S.C. § 5704;

(3) The mileage allowance provided for by 28 U.S. 1821 § (c)(2), the amount of which is fixed by 28 U.S.C. § 5704;

(4) Where travel is by automobile to or from a place outside the district, that mileage allowance shall not exceed 100 miles each way. Where travel is by automobile to or from a place within the district, actual mileage may be claimed even if it exceeds 100 miles each way. Where travel is other than by automobile, actual costs of travel may be claimed to the extent that the cost does not exceed the mileage allowance of 100 miles each way.[2]

(5) No fees of expert witnesses in excess of the above-mentioned attendance, subsistence and travel fees shall be taxed.[3]

(b) Any party desiring to tax attendance, subsistence travel or other witness fees or expenses other than those described in subparagraph (a) shall file in writing a motion to retax the costs pursuant to Fed. R. Civ. P. 54 (d) and Local Rule 54.1, and present the matter to the court.

DONE this _____day of _____, 1997.

_____
Charles R. Butler, Jr.,
Chief Judge, U. S. District Court

_____
Richard W. Vollmer, Jr.
Judge, U.S. District Court

_____
Alex T. Howard, Jr.
Senior U.S. District Judge

_____
Wm. Brevard Hand
Senior U.S. District Judge

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[2]The Supreme Court has held that the long standing 100 mile rule is a proper and necessary consideration in exercising discretion in the field of awarding expenses and that a district court did not abuse its discretion in limiting the travel expenses of a witness from Saudi Arabia to 100 miles each way. Farmer v. Arabian Oil Company, 379 U.S. 227, 234-235, 85 S.Ct. 411, 416 (1964).

[3]Henkel v. Chicago, St. Paul, Minneapolis & Omaha Railway, 284 U.S. 444, 52 S.Ct. 223 (1932); Kivi v. Nationwide Mutual Insurance Co., 695 F.2d 1285, 1289 (11th Cir. 1983).

Virgil Pittman
Senior U.S. District Judge

Daniel H. Thomas
Senior U.S. District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

_____	*	
	*	
vs.	*	Civil/Criminal Action No. _____
	*	
_____	*	

DISCLOSURE STATEMENT PURSUANT TO LOCAL RULE 3.4

Pursuant to Local Rule 3.4 of the Southern District of Alabama and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for _____, in the above captioned action, certifies that the following are parents, subsidiaries and/or affiliates of said party that have issued shares or debt securities to the public: _____

_____

_____

-or-

Pursuant to Local Rule 3.4 of the Southern District of Alabama and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for _____, in the above captioned action, certifies that there are no parents, subsidiaries and/or affiliates of said party that have issued shares or debt securities to the public.

_____ _____

Date Signature of Attorney or Litigant